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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,418	12/19/2001	Petrus Paulus Waanders	ACD 2847 US	2525

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EXAMINER

TESKIN, FRED M

ART UNIT

PAPER NUMBER

1713

DATE MAILED: 08/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

AS-10

# Office Action Summary

Application No.

10/026,418

Applicant(s)

Waanders, et al.

Examiner

Fred Teskin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on May 20, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13-25 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some\* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other: _____                                    |

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1. Amendments presented in the response of May 20, 2003 are acknowledged and deemed to obviate the objection to the disclosure and the § 112/2d paragraph rejection as set out in the prior Office action. New claims 14-26 have been renumbered by the examiner as claims 13-25, respectively, as per 37 CFR 1.126, since claim 12 was the highest numbered claim previously presented. Accordingly, claims 13-25 are currently pending and under examination.

2. In regard to the Information Disclosure Statement filed March 25, 2002, it is noted that a copy of an examiner-initialled Form PTO-1449 was attached to the previous Office action; however, the original cannot be located in the application file. In order to complete the record herein, applicants are requested to furnish a copy of the initialled Form PTO-1449 in responding to this Office action.

3. Claims 13-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the following grounds for indefiniteness apply to the indicated claims.

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(A) Claim 13 is ambiguous in the recitation of a "joint" flash point and a "joint" boiling point following the expression "one or more phlegmatisers". As the term "joint" means several, it is unclear if and how the limitations as to flash point and boiling point apply where a single phlegmatiser is used in the claimed method. If the stated flash point and boiling point are intended to apply to a single phlegmatiser, amending claim 13 as per the specification at page 5, lines 11-14 would serve to eliminate any ambiguity.

(B) Claim 16 is indefinite due to dependency on a cancelled claim, i.e., claim 1. (See claim 16, line 6.)

(C) Claim 19 is indefinite due to omission of the number of the claim from which dependency is intended (see line 1).

(D) Claims 24 and 25 are confusing and misdescriptive in referring to "a peroxide formulation, as claimed in any of Claims 14-22, [sic, 13-21]," since each of the referenced claims is drawn to a method, not a formulation or composition. In addition, insofar as the reference to "a peroxide formulation" is intended to claim use of the peroxide formulation defined in the referenced claims as such, claims 24 and 25 are improper dependent claims for failing to include all the limitations of an earlier claim,

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including the peroxide-containing container as defined in claim 13. Clarification and appropriate correction are required.

4. Applicants' arguments filed May 20, 2003 have been fully considered but they are deemed moot in view of the new ground of rejection.

5. Claims 13-25 are allowable in substance over the prior art record.

6. In view of the new grounds of rejection, this action is made non-final.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner F.

M. Teskin whose telephone number is (703) 308-2456.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on (703) 308-2450. The appropriate fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 (non-after finals) and (703) 872-9311 (after-finals).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

FMTeskin/08-04-03

  
FRED TESKIN  
PRIMARY EXAMINER  
1713